IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION NO : 23438 of 2004**

Between:

V. Kameswara Rao, S/o Late Ganapathi, Hindu,
R/o Bhrahmanatarla Village, Srikakulam District.

**..... PETITIONER**

AND

1 The Superintending Engineer,
Assessments, A.P.E.P. D.C. Ltd, Opp: Hotel Green Park,
Maharanipeta Post, Visakhapatnam - 530 002.
2 The Assistant Divisional Engineer, Operation,
A.P.E.P. D.C. Ltd, Palasa, Srikakulam District.
3 The Additional Assistant Engineer, Operation,
A.P.E.P. D.C. Ltd, Palasa, Srikakulam District.
4 The Assistant Accounts Officer, Electricity Revenue Office,
A.P. E.P. D.C. Ltd, Kasibugga, Visakhapatnam District.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the Provisional Assessment Notice dated 20-11-2003 issued by the 2nd Respondent and consequential disconnection of the power supply in the Service No. 720 of the Petitioner as without jurisdiction and arbitrary by issuing a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus and consequently to set aside the Provisional Assessment Notice dated 20-11-2003 and direct the Respondents to restore the power supply to the Petitioner bearing Service No. 720 forthwith and to pass such other or further orders

**Counsel for the Petitioner:MR.G.RAMA GOPAL**

**Counsel for the Respondents: Mr.K.Ravindra Kumar**

**The Court, at the stage of admission, made the following :**

**ORDER:**

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Petitioner established a rice mill and he is extended power supply to run the Motor of 60 H.P. under Category-III. He was issued an order of provisional assessment, dated 20.11.2003, whereunder it was pointed out that the petitioner had resorted to acts of pilferage, and the value of the power so pilfered was assessed at Rs.5,07,207/-. Petitioner was required to pay half of the same, in case he wants the continuance of the power supply. On the ground that the said amount was not paid, the power supply was disconnected. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

Petitioner was issued an order of provisional assessment, dated 20.11.2003, alleging that he pilfered power valued at Rs.5,07,207/-. The actual liability of the petitioner has to be decided only after considering the explanation that he may submit, in response to the Show-Cause notice. Till an order of final assessment is passed, petitioner cannot be fastened with any liability. A Division Bench of this Court held so, and the learned Standing Counsel did not dispute the same.

In that view of the matter, the writ petition is allowed directing the respondents to restore the power supply, without insisting on payment of any amount, in pursuance of the order of provisional assessment. Petitioner, however, shall be liable to pay the actual consumption charges. The liability of the petitioner shall be determined only through an order of final assessment. There shall be no order as to costs.

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**L.NARASIMHA REDDY, J**

Dated : 16th December, 2004

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To

1 The Superintending Engineer,
Assessments, A.P.E.P. D.C. Ltd, Opp: Hotel Green Park,
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